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UNITED NATIONS CONFERENCE ON
STRADDLING FISH STOCKS AND
HIGHLY MIGRATORY FISH STOCKS
Sixth session
New York, 24 July-4 August 1995

FINAL ACT OF THE UNITED NATIONS CONFERENCE ON STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

I. INTRODUCTION

1. The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks was convened pursuant to paragraph 1 of General Assembly resolution 47/192 of 22 December 1992 in accordance with the mandate agreed upon at the United Nations Conference on Environment and Development.

2. The United Nations Conference on Environment and Development, held at Rio de Janeiro from 3 to 14 June 1992, adopted Agenda 21, paragraph 17.49 of which reads as follows:

> "States should take effective action, including bilateral and multilateral cooperation, where appropriate at the subregional, regional and global levels, to ensure that high seas fisheries are managed in accordance with the provisions of the United Nations Convention on the Law of the Sea. In particular, they should:
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> "...
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> "(e) Convene, as soon as possible, an intergovernmental conference under United Nations auspices, taking into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The conference, drawing, inter alia, on scientific and technical studies by FAO, should identify and assess existing problems related to the conservation and management of such fish stocks, and consider means of

improving cooperation on fisheries among States, and formulate appropriate recommendations. The work and results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas." 1/

3. The General Assembly, in its resolution 47/192, recalled Agenda 21, in particular chapter 17, programme area C, relating to the sustainable use and conservation of marine living resources of the high seas, and decided that the Conference, in accordance with the mandate quoted above, should take into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The Assembly further decided that the Conference, drawing, inter alia, on scientific and technical studies by the Food and Agriculture Organization of the United Nations, should: (a) identify and assess existing problems related to the conservation and management of such fish stocks; (b) consider means of improving fisheries cooperation among States; and (c) formulate appropriate recommendations.

4. The General Assembly also reaffirmed that the work and results of the Conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas, and that States should give full effect to the high seas fisheries provisions of the Convention with regard to fisheries populations whose ranges lie both within and beyond exclusive economic zones (straddling fish stocks) and highly migratory fish stocks.

5. By the same resolution, the General Assembly invited relevant specialized agencies, particularly the Food and Agriculture Organization of the United Nations, and other appropriate organs, organizations and programmes of the United Nations system, as well as regional and subregional fisheries organizations, to contribute relevant scientific and technical studies and reports. It also invited relevant non-governmental organizations from developed and developing countries to contribute to the Conference within the areas of their competence and expertise.

II. SESSIONS OF THE CONFERENCE

6. Pursuant to General Assembly resolutions 47/192, 48/194 of 21 December 1993 and 49/121 of 19 December 1994, the following sessions of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks were held at United Nations Headquarters in New York: 2/

- First session: 19 to 23 April 1993;
- Second session: 12 to 30 July 1993;
- Third session: 14 to 31 March 1994;
- Fourth session: 15 to 26 August 1994;
- Fifth session: 27 March to 12 April 1995;
- Sixth session: 24 July to 4 August 1995. 3/

III. PARTICIPATION IN THE CONFERENCE

7. Pursuant to paragraph 4 of General Assembly resolution 47/192, the following were invited to the Conference:

(a) States Members of the United Nations or members of the specialized agencies and the International Atomic Energy Agency;

(b) Representatives of organizations that have received a standing invitation from the General Assembly to participate, in the capacity of observers, in the sessions and work of all international conferences convened under its auspices;

(c) Associate members of regional commissions;

(d) Representatives of the national liberation movements recognized by the Organization of African Unity in its region;

(e) Specialized agencies and the International Atomic Energy Agency, as well as other organs, organizations and programmes of the United Nations system;

(f) Relevant intergovernmental organizations that had been invited to participate in the work of the Preparatory Committee for the United Nations Conference on Environment and Development;

(g) Regional and subregional fisheries organizations;

(h) Relevant non-governmental organizations.

8. The representatives of the following States participated in the sessions of the Conference: Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Brazil, Bulgaria, Burundi, Cameroon, Canada, Cape Verde, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Jamaica, Japan, Kazakstan, Kenya, Kiribati, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Morocco, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Niue, Norway, Pakistan, Palau, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Vanuatu, Venezuela, Viet Nam, Zambia and Zimbabwe.

9. The representative of the European Community 4/ participated in the sessions without the right to vote.

10. The following associate members of a regional commission were represented as observers at the sessions: Montserrat and United States Virgin Islands.

11. The following national liberation movement was represented as observer at the first session: Pan Africanist Congress of Azania.

12. The following specialized agencies were represented as observers at the sessions: Food and Agriculture Organization of the United Nations (FAO), United Nations Educational, Scientific and Cultural Organization (UNESCO) and World Bank.

13. The Intergovernmental Oceanographic Commission (IOC) of UNESCO, the United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP) were also present as observers at the sessions.

14. The following intergovernmental organizations were represented as observers at the sessions: Asian-African Legal Consultative Committee, Commission on the Indian Ocean, Inter-American Tropical Tuna Commission, International Commission for the Conservation of Atlantic Tunas, International Council for the Exploration of the Sea, International Maritime Satellite Organization, International Whaling Commission, Latin American Organization for the Development of Fisheries, Ministerial Conference on Fisheries Cooperation among African States bordering the Atlantic Ocean, North Atlantic Salmon Conservation Organization, Northwest Atlantic Fisheries Organization, Organization of African Unity, Organisation for Economic Cooperation and Development, South Pacific Commission, South Pacific Permanent Commission and South Pacific Forum Fisheries Agency.

15. The following non-governmental organizations were represented as observers at the sessions: Alaska Marine Conservation Council, Alaska Public Interest Research Group, American Oceans Campaign, American Society of International Law, Association Algérienne pour la Protection de la Nature et de l'Environnement, Association Tunisienne pour la Protection de la Nature et de l'Environnement, Association of the Bar of the City of New York, Atlantic Salmon Federation, Bering Sea Fisherman's Association, Both Ends, Canadian Oceans Caucus, Center for Development of International Law, Center for Marine Conservation, Centre de Recherches pour le Développement des Technologies Intermédiares de Pêche, Comité Catholique Contre la Faim et pour le Développement, Confederación de Trabajadores Portuarios, Gente de Mar y Pesqueros de Chile, Confederación Nacional de Pescadores Artesanales de Chile, Coordinadora de Tripulantes Pesqueros Industriales del Cono Sur de América Latina, Council on Ocean Law, Earth Council, Earth Island Institute, Earthtrust, Environmental Defense Fund, Federación Nacional de Cooperativas Pesqueras del Ecuador, Federation of Japan Tuna Fisheries Cooperative Associations, Fish, Food and Allied Workers, Fisheries Council of Canada, Four Directions Council, Friends of the Earth International, Friends World Committee for Consultations (Quaker United Nations Office), Fundación Hernandiana, Global Education Associates, Greenpeace International, Groupement d'Intérêt Économique, International Coalition of Fisheries Associations, International Coastal and Ocean Organization,

International Collective in Support of Fishworkers, International Confederation of Free Trade Unions, International Institute for Sustainable Development, International Law Association, International Ocean Institute, International Union for the Conservation of Nature and Natural Resources (IUCN), Japan Fisheries Association, Kandune Self Help Water Project, Marine Environmental Research Institute, Namibian Food and Allied Workers Union, National Audubon Society, National Wildlife Federation, Nationwide Coalition of Fisherfolks for Aquatic Reform, Natural Resources Defense Council, Netherlands National Committee for IUCN, Newfoundland and Labrador Environmental Association, Newfoundland Inshore Fisheries Association, Oceans Institute of Canada, Ocean Trust, Overseas Fishery Cooperation Foundation, Pamalakaya (National United Movement of Fisherfolk - Philippines), Red Mexicana de Acción frente al Libre Comercio, Réserve Internationale Maritime en Mediterranée Occidentale, Samoan Association of Non-governmental Organizations, Sindicato de Obreros Marítimos Unidos, SONAR (Save Our Northwest Atlantic Resources), Trickle Up Program, United Nations Association in Canada, United Nations Association-United Kingdom, United Nations Environment and Development-United Kingdom Committee, Wildlife Conservation Society, Women and Fisheries Network, World Wide Fund for Nature, World Wide Fund Suisse.

16. Pursuant to paragraph 9 of General Assembly resolution 47/192, a voluntary fund was established in the Secretariat for the purpose of assisting developing countries, especially those most concerned by the subject-matter of the Conference, in particular the least developed among them, to participate in the Conference. Contributions to the Fund were made by the Governments of Canada, Japan, Norway and the Republic of Korea.

IV. OFFICERS AND COMMITTEES

17. At its first meeting, the Conference elected Mr. Satya N. Nandan (Fiji) as its Chairman.

18. The Conference also elected as Vice-Chairmen the representatives of the following States: Chile, Italy and Mauritania.

19. The Conference appointed the representatives of the following States as members of the Credentials Committee: Antigua and Barbuda, Argentina, Burundi, China, Kenya, New Zealand, Papua New Guinea, Russian Federation and United States of America. At its first meeting, on 28 July 1993, the Credentials Committee elected Mr. Alberto Luis Daverede (Argentina) as its Chairman.

20. At the first and second sessions, Mr. Carl-August Fleischhauer, Under-Secretary-General for Legal Affairs, the Legal Counsel, and thereafter Mr. Hans Corell, served as Secretary-General of the Conference, representing the Secretary-General of the United Nations. For the first four sessions, Mr. Dolliver L. Nelson, and thereafter Mr. Moritaka Hayashi, served as Secretary of the Conference.

21. In accordance with paragraph 11 of General Assembly resolution 47/192, the Food and Agriculture Organization of the United Nations provided an officer,

Mr. David J. Doulman, to serve as Scientific and Technical Adviser to the Conference.

V. DOCUMENTATION OF THE CONFERENCE

22. The Conference documentation 5/ included, inter alia, the following:

(a) Rules of procedure; 6/

(b) Proposals and other communications submitted by delegations; 7/

(c) Reports and studies submitted by the Secretariat, FAO and IOC; 8/

(d) Reports and comments submitted by intergovernmental organizations, regional and subregional fisheries organizations and arrangements; 9/

(e) Statements by the Chairman of the Conference; 10/

(f) A guide to the issues before the Conference, the negotiating texts and the draft agreement prepared by the Chairman of the Conference. 11/

VI. WORK OF THE CONFERENCE

23. The Conference adopted its agenda (A/CONF.164/5) and rules of procedure (A/CONF.164/6) at its first session.

24. At the second session, the Conference devoted the first three days to general debate, following which the Chairman outlined the key issues on which there was general agreement. 12/

25. At the same session, the Conference proceeded to examine the issues relating to straddling fish stocks and highly migratory fish stocks as contained in the document entitled "A guide to the issues before the Conference prepared by the Chairman" (A/CONF.164/10).

26. At the end of the second session, the Chairman prepared a negotiating text (A/CONF.164/13), which the Conference considered at the third session.

27. Also at the third session, the Conference established two open-ended working groups to consider the information papers, prepared by FAO at the request of the Conference, on the precautionary approach to fisheries management and on management reference points. Mr. Andrés Couve (Chile) and Mr. Andrew Rosenberg (United States of America) served as chairmen of the working groups. The results of the work of the two working groups are contained in documents A/CONF.164/WP.1 and WP.2. At the end of the third session, the Chairman submitted a revision of his negotiating text (A/CONF.164/13/Rev.1), which reflected the work of the Working Groups.

28. At the fourth session, the Chairman prepared a new revision of his negotiating text in the form of a binding instrument, entitled "Draft Agreement

for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks" (A/CONF.164/22). At the end of the fifth session, the Chairman prepared a revised text of the Draft Agreement (A/CONF.164/22/Rev.1).

29. At the sixth session, the Conference considered the revised text of the Draft Agreement (A/CONF.164/22/Rev.1), as well as suggested drafting changes and editorial improvements (A/CONF.164/CRP.7). Following the deliberations of the Conference, the Chairman proposed for adoption a "Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks" (A/CONF.164/33).

30. On 4 August 1995, the Conference adopted without a vote the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, as well as resolutions I and II (A/CONF.164/32, annex). The two resolutions are annexed to this Final Act. In doing so, the Conference discharged the mandate given to it by the General Assembly in its resolution 47/192.

31. The Conference decided to resume its sixth session on 4 December 1995 for a ceremony of signature of the Agreement and this Final Act. The Conference requested the Secretariat to prepare the final text of the Agreement, incorporating necessary editing and drafting changes and ensuring concordance among the six language versions. 13/

IN WITNESS WHEREOF the undersigned have signed this Final Act.

DONE AT UNITED NATIONS HEADQUARTERS in New York this fourth day of December, one thousand nine hundred ninety-five, in a single copy in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic. The original texts shall be deposited in the archives of the United Nations Secretariat.

The Chairman of the Conference:

Satya N. NANDAN

The Under-Secretary-General for Legal Affairs, The Legal Counsel:

Hans CORELL

The Secretary of the Conference:

Moritaka HAYASHI

Notes

1/ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.96.I.8 and corrigenda), vol. I: Resolutions adopted by the Conference, resolution 1, annex II, paragraph 17.49.

2/ Reports on each of the sessions are contained in A/CONF.164/9 (first (organizational) session), A/CONF.164/16 and Corr.1 (second session), A/CONF.164/20 (third session), A/CONF.164/25 (fourth session), A/CONF.164/29 (fifth session) and A/CONF/164/36 (sixth session).

3/ See paragraph 31 below.

4/ Rule 2 of the rules of procedure of the Conference (A/CONF.164/6) provides that:

> "The representative of the European Economic Community shall participate in the Conference in matters within its competence without the right to vote. Such representation shall in no case entail an increase of the representation to which the States members of the European Economic Community would otherwise be entitled."

In adopting the above rule the Conference recorded the following understanding:

> "This rule is agreed upon in view of the fact that, with regard to the conservation and management of the sea fishing resources, States members of the European Economic Community have transferred competence to the Community, and in no way does it constitute a precedent for other United Nations forums where a similar transfer of competence does not occur. (See Declaration of the European Economic Community upon signing the United Nations Convention on the Law of the Sea. Multilateral treaties deposited with the Secretary-General (ST/LEG/SER.E/10, p. 801).)" (A/CONF.164/6, note 1)

The Secretariat was informed during the third session of the Conference that the European Economic Community had changed its name to the European Community.

5/ For a complete listing of the Conference documentation, see A/CONF.164/INF/16.

6/ A/CONF.164/6.

7/ A/CONF.164/L.1-L.50.

8/ Report of the technical consultation on high seas fishing and the papers presented at the technical consultation on high seas fishing (FAO) (A/CONF.164/INF/2); information on activities of the Intergovernmental Oceanographic Commission relevant to the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/INF/3); some high seas fisheries aspects relating to straddling fish stocks and highly migratory fish stocks (FAO) (A/CONF.164/INF/4 and Corr.1); background paper prepared by the

Secretariat (A/CONF.164/INF/5); the precautionary approach to fisheries with reference to straddling fish stocks and highly migratory fish stocks (FAO) (A/CONF.164/INF/8); and reference points for fisheries management - their potential application to straddling and highly migratory resources (FAO) (A/CONF.164/INF/9).

9/ Report of the first session of the International Conference on the Conservation and Management of the Marine Living Resources in the High Seas of the Okhotsk Sea (submitted by the delegation of the Russian Federation) (A/CONF.164/INF/6); Ad hoc consultation on the role of regional fishery agencies in relation to high-seas fishing statistics (A/CONF.164/INF/10); comments by the Coordinating Working Party on Fishery Statistics on annex I to the Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/INF/13).

10/ A/CONF.164/7, 8, 11, 12, 15, 17, 19, 21, 24, 26, 28, 30 and 35.

11/ A guide to the issues before the Conference (A/CONF.164/10); Negotiating text (A/CONF.164/13); Revised negotiating text (A/CONF.164/13/Rev.1); Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (A/CONF.164/22); revised Draft Agreement (A/CONF.164/22/Rev.1); and Draft Agreement (A/CONF.164/33).

12/ See A/48/479, para. 10.

13/ The final text of the Agreement will be issued as document A/CONF.164/37.

ANNEX

Resolution I

Early and effective implementation of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Having adopted the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,

Underlining the importance of early and effective implementation of the Agreement,

Recognizing, therefore, the need to provide for the provisional application of the Agreement,

Emphasizing the importance of rapid entry into force of the Agreement and early achievement of universal participation,

1. Requests the Secretary-General of the United Nations to open the Agreement for signature in New York on 4 December 1995;

2. Urges all States and other entities referred to in article 1, paragraph 2 (b), of the Agreement to sign it on 4 December 1995 or at the earliest subsequent opportunity and thereafter to ratify, or accede to it;

3. Calls upon States and other entities referred to in paragraph 2 of the present resolution to apply the Agreement provisionally.

Resolution II

Reports on developments by the Secretary-General of the United Nations

The United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks,

Having adopted the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,

Recognizing the importance of periodic consideration and review of developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks,

Recalling General Assembly resolution 49/28 of 6 December 1994, in which the Assembly underlined the importance of consideration and review of the overall developments relating to the law of the sea by the Assembly, as the global institution having the competence to undertake such a review,

Recalling also the responsibility of the Secretary-General under the United Nations Convention on the Law of the Sea to report on developments pertaining to the implementation of the Convention,

Recognizing the importance of exchange of information among States, and relevant intergovernmental and non-governmental organizations concerning the implementation of the Agreement,

1. Recommends to the General Assembly that it review developments relating to the conservation and management of straddling fish stocks and highly migratory fish stocks, on the basis of a report to be submitted by the Secretary-General at the second session following the adoption of the Agreement and biennially thereafter;

2. Requests the Secretary-General of the United Nations, in preparing such report, to take into account information provided by States, the Food and Agriculture Organization of the United Nations and its fisheries bodies and subregional and regional organizations and arrangements for the conservation and management of straddling fish stocks and highly migratory fish stocks, as well as other relevant intergovernmental bodies and relevant non-governmental organizations;

3. Also requests the Secretary-General to cooperate with the Food and Agriculture Organization of the United Nations in order to ensure that reporting on all major fisheries instruments and activities is coordinated and the required scientific and technical analysis standardized to minimize duplication and to reduce the reporting burden for national administrations.